

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DAVID J. FINE, in his capacity as Court-	)	
Appointed Ancillary Receiver of Bradford	)	
C. Bleidt and Allocation Plus Asset	)	
Management Company, Inc. and NANCY	)	
LOMBARD, LANGDON F. LOMBARD,	)	
DONNA BRANDT LAWRENCE and	)	
BESSIE PANOS, individually and on behalf	)	
of a class of persons and entities similarly	)	
situated,	)	
	)	
Plaintiffs,	)	C.A. No. 06-11450(NG)
	)	
JOEL ABRAMSON, <i>et al.</i> ,	)	
	)	
Intervenor-Plaintiffs,	)	
	)	
v.	)	
	)	
SOVEREIGN BANK,	)	
	)	
Defendant.	)	

**SOVEREIGN BANK'S MOTION TO DISMISS CERTAIN CLAIMS IN  
SECOND AMENDED COMPLAINT IN INTERVENTION**

Sovereign Bank ("Sovereign") hereby moves to dismiss certain conversion claims in Counts II and VI and Intervenor's newly alleged Mass. Gen. L. ch. 93A claim in Count V of the Second Amended Complaint in Intervention filed on January 6, 2010. (Docket No. #485).

Conversion claims based on certain checks identified by Intervenor in the exhibits to the Second Amended Complaint fail for one or more of three reasons: (1) the individual whose check was allegedly converted is not a party; (2) the instrument is not a third-party check; and/or (3) the claim is barred by the applicable statute of limitations.

The specific checks identified by Intervenor on Exhibit 1A to the Second Amended Complaint that cannot support conversion claims are described in Section IB of Sovereign's accompanying memorandum of law and listed on Exhibit B thereto.

Intervenor's Chapter 93A claim premised on Sovereign's alleged failure to conduct an investigation and take other internal actions after the discovery of Bleidt's fraud (referred to by the Court and parties as the "newly allegedly Chapter 93A claim"), likewise fails. Despite being given the opportunity to re-plead, Intervenor has utterly failed to allege facts sufficient to raise a reasonable expectation of proving the elements of such claim.

The grounds for Sovereign's motion are set forth more fully in the accompanying memorandum of law filed herewith.

WHEREFORE, Sovereign respectfully requests this Court:

- A. Dismiss with prejudice certain of the conversion claims in Counts II and VI that are based on checks listed in Exhibit B to the accompanying memorandum in support;
- B. Dismiss with prejudice the newly alleged Chapter 93A claim in Count V; and,
- C. Award Sovereign such further relief as this Court deems proper.

SOVEREIGN BANK  
By its attorneys,

/s/ Patrick T. Voke

Patrick T. Voke, BBO #553033

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Dated: February 9, 2010

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)**

I, Daniel J. Blake, hereby certify that prior to filing this motion, I electronically conferred with the Intervenor's counsel on February 9, 2010 in a good faith effort to resolve the issue presented in accordance with Local Rule 7.1(A)(2).

Dated: February 9, 2010

/s/ Daniel J. Blake  
Daniel J. Blake

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF System will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: February 9, 2010

/s/ Daniel J. Blake  
Daniel J. Blake

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